

SERVICE DATE – NOVEMBER 30, 2016

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 724

UNITED STATES RAIL SERVICE ISSUES

Docket No. EP 724 (Sub-No. 3)

UNITED STATES RAIL SERVICE ISSUES—DATA COLLECTION

Digest:¹ Following the issuance of new regulations in Docket No. EP 724 (Sub-No. 4), the Board is discontinuing the proceedings in Docket No. EP 724 and Docket No. EP 724 (Sub-No. 3).

Decided: November 29, 2016

On April 1, 2014, and October 8, 2014, the Board issued two orders in response to service issues at the time across the U.S. rail network. The first order, in Docket No. EP 724, announced a public hearing in response to concerns about service problems that were occurring across significant portions of the nation's rail network. In response to the concerns raised at that hearing (as well as a second public hearing), the Board issued an order in Docket No. EP 724 (Sub-No. 3) requiring all Class I carriers and the Chicago Transportation Coordination Office (CTCO) (through its Class I members) to file weekly public performance data on an interim basis. For the reasons stated below, the proceedings in Docket No. EP 724 and Docket No. EP 724 (Sub-No. 3) will be discontinued. Concurrently with this decision, the Board is issuing a final rule in Docket No. EP 724 (Sub-No. 4) requiring all Class I railroads and the CTCO to file public performance data on a permanent basis.

BACKGROUND

Docket No. EP 724. On April 10, 2014, the Board held a public hearing at its offices in Washington, D.C., to get more information on service problems occurring at the time across the U.S. rail network, hear rail industry plans to address those service problems, and discuss options to improve service. See U.S. Rail Serv. Issues, EP 724, slip op. at 1 (STB served Apr. 1, 2014). On September 4, 2014, the Board held a field hearing in Fargo, N.D., to provide another forum for interested parties to report on service disruptions and provide updates on plans to resolve

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

those issues, and to discuss additional options to improve service. U.S. Rail Serv. Issues, EP 724 et al., slip op. at 1 (STB served Aug. 18, 2014). Following that hearing, the Board directed Canadian Pacific Railway Company (CP) to answer specific requests to supplement the information it had provided at the field hearing and in its annual peak season letter to the Chairman.² U.S. Rail Serv. Issues, EP 724, slip op. at 1 (STB served Oct. 14, 2014). On October 24, 2014, CP submitted its responses to the Board's questions. (CP Reply, Oct. 24, 2014, U.S. Rail Serv. Issues, EP 724.) Additionally, in response to a petition by the Western Coal Traffic League, the Board required BNSF Railway Company (BNSF) to submit "its contingency plans for addressing any [critical shortfalls of coal], including a detailed description of the steps it takes to identify coal-fired plants at critical levels and to remedy acute shortages in a timely fashion." U.S. Rail Serv. Issues, EP 724, slip op. at 6 (STB served Dec. 30, 2014). BNSF filed its reply on January 29, 2015.

Docket No. EP 724 (Sub-No. 3). On October 8, 2014, the Board issued an order requiring regular reporting of standardized performance data by Class I railroads and the CTCO (through its Class I members). See U.S. Rail Serv. Issues—Data Collection (Interim Data Order), EP 724 (Sub-No. 3), slip op. at 2-5 (STB served Oct. 8, 2014).³ Pursuant to the Interim Data Order, the Class I railroads and the Association of American Railroads (on behalf of its freight railroad member representatives in the CTCO) have been reporting data weekly since October 22, 2014.

Docket No. EP 724 (Sub-No. 4). On December 30, 2014, the Board issued a notice of proposed rulemaking proposing to establish regulations requiring all Class I railroads and the CTCO to permanently report certain service performance metrics on a weekly, quarterly, and occasional basis. See U.S. Rail Serv. Issues—Performance Data Reporting, EP 724 (Sub-No. 4), slip op. at 1, 3-4 (STB served Dec. 30, 2014). After the close of the comment period, the Board issued an order announcing that it would waive its ex parte communications rules to allow Board staff to hold meetings with interested parties regarding technical issues in this proceeding. See U.S. Rail Serv. Issues—Performance Data Reporting, EP 724 (Sub-No. 4) (STB served Nov. 9,

² The annual "Fall Peak letter" has since been discontinued due to, among other things, the weekly collection of service performance reports that the Board began collecting pursuant to the Interim Data Order. Press Release, Surface Transportation Board, STB Chairman Daniel R. Elliott III Discontinues Annual Letter to Rail Industry Seeking End-of-Year Outlook (Aug. 22, 2016), https://www.stb.gov/stb/news/news_releases.html (follow "date of issuance within the current year" or "prior to the current year" hyperlink, as appropriate to access 2016 press releases; then follow "8/22/2016" hyperlink).

³ In that decision, the Board also discontinued reporting ordered under U.S. Rail Service Issues—Grain, Docket No. EP 724 (Sub-No. 2), with two exceptions related to CP's supplying of locomotives and grain cars moving between CP and the Rapid City, Pierre & Eastern Railroad, Inc. (RCP&E). Interim Data Order, slip op. at 2 n.7. On February 23, 2016, the Board discontinued all reporting by CP related to RCP&E. U.S. Rail Serv. Issues—Data Collection, EP 724 (Sub-No. 3) (STB served Feb. 23, 2016).

2015). Those meetings were held between November 19, 2015 and December 7, 2015. A summary of each meeting was posted in that docket and parties provided additional comments on the summaries. The Board then issued a supplemental notice of proposed rulemaking. See U.S. Rail Serv. Issues—Performance Data Reporting, EP 724 (Sub-No. 4) (STB served April 29, 2016), corrected, (STB served May 13, 2016).

DISCUSSION AND CONCLUSIONS

Concurrently with this decision, the Board is issuing its final rule in Docket No. EP 724 (Sub-No. 4). The final rule requires Class I railroads to begin reporting the required data on February 8, 2017, at which point reporting under the Interim Data Order will no longer be necessary. Accordingly, the Board will discontinue reporting required by the Interim Data Order immediately following the reports due one week prior to the start of reporting under the final rule. The final date for reporting under the Interim Data Order will be February 1, 2017. The issuance of the final rule in Docket No. EP 724 (Sub-No. 4) also concludes the need for additional comment in Docket No. EP 724 on the service issues that occurred throughout the national rail network in 2013-2014. As explained in the final rule, those service issues prompted the Board to issue the Interim Data Order which, in turn, led to the issuance of the final rule. U.S. Rail Serv. Issues—Performance Data Reporting, EP 724 (Sub-No. 4), slip op. at 1-4 (STB served Nov. 30, 2016). Because the Board is issuing new regulations in a separate sub-docket, Docket No. EP 724 and Docket No. EP 724 (Sub-No. 3) will be closed, effective the day after the final reporting date for the Interim Data Order, February 2, 2017.

It is ordered:

1. The final date for reporting under the Interim Data Order will be February 1, 2017.
2. The proceedings in Docket No. EP 724 and Docket No. EP 724 (Sub-No. 3) will be discontinued as described above, effective February 2, 2017.
3. Notice of the Board's action will be published in the Federal Register.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.